



Council Communication

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAN DUBOIS, FIRE MARSHAL (503-6351)

THROUGH: COLLIN DEWITT, FIRE CHIEF (503-6321)

MEETING DATE: OCTOBER 4, 2012

SUBJECT: ALCOHOL, TOBACCO AND FIREARMS MEMORANDUM OF AGREEMENT FOR ACCELERANT DETECTION CANINE PROGRAM

STRATEGIC INITIATIVE: Community Livability

This Memorandum of Agreement supports community livability by providing a safer community

LEGAL REVIEW

☒ Complete

☐ N/A

FINANCIAL REVIEW

☒ Complete

☐ N/A

RECOMMENDED MOTION

A MOTION TO APPROVE INTERGOVERNMENTAL AGREEMENT NO. 2013-3002-0102 WITH THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES FOR PARTICIPATION IN THE ACCELERANT DETECTION CANINE PROGRAM AND AUTHORIZE THE FIRE CHIEF TO EXECUTE THE REQUIRED DOCUMENTS.

BACKGROUND/DISCUSSION

Town of Gilbert Fire Investigators investigate on average 50 fires annually. Of those fires investigated approximately 30% are arson fires (national average is 33%). The Town of Gilbert has been asked by the Bureau of Alcohol, Tobacco and Firearms (ATF) to participate in their Accelerant Detection Canine Program (ADCP). This state-of-the-art accelerant detection system was developed by ATF and its National Laboratory. The ADCP was developed to address today's arson threat to the general public and to assist the arson investigator in the collection of field samples for laboratory analysis. Arson is one of the most difficult criminal offenses to establish because most cases are based largely on circumstantial evidence. Generally, there are no witnesses and the composition of the evidence is consumed by the fire. Extracting and processing evidence from the fire scene becomes essential for developing evidence

needed to secure successful prosecution. The ADCP addresses the arson investigator's need to have a more accurate, credible, and mobile accelerant detection resource. This program produces a final product capable of assisting the fire investigator in the efficient and expeditious recovery of samples for subsequent submission to the laboratory for accelerant analysis. Having this additional tool available for Arson Investigations would help increase efficiency and decrease on scene time while enhancing public safety. The canine training program is 6 weeks long and will begin Oct. 29th 2012. After that the canine is housed at the handlers' residence. (Contract Number 2013-3002-0102).

The Contract was reviewed by Attorney (Kelly Schwab).

FINANCIAL IMPACT

The impact to this year's expenditure budget is \$2,700 which will be covered by reallocation of existing funds within the Fire Investigation Budget. The budgeted amount of \$2,700 will be offset by a check for \$2,360 from the Gilbert Police Citizens' Alumni Association (GPCAA) to lower this year's cost. (The ATF and the Gilbert Police Citizens' Alumni Association (GPCAA) will be covering all costs associated with travel and training.) The estimated recurring annual cost will be \$2,700 which will be budgeted for next fiscal year. It is also anticipated that the GPCAA will provide assistance to offset the budgeted amount for each recurring fiscal year.

The financial impact was reviewed by Laura Lorenzen, Budget/Finance.

STAFF RECOMMENDATION

Staff recommends the approval of the Memorandum of Agreement with the Bureau of Alcohol, Tobacco and Firearms to participate in the Accelerant Detection Canine Program.

Respectfully submitted,

Dan DuBois
Fire Marshal

Attachments and Enclosures:

Memorandum of Agreement Between the Bureau of Alcohol, Tobacco, Firearms and Explosives and Town of Gilbert.

**MEMORANDUM OF AGREEMENT
BETWEEN THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
AND THE
TOWN OF GILBERT**

This Memorandum of Agreement (MOA) between the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Town of Gilbert ("Agency") (collectively known as the "Parties"), establishes the terms and conditions for participation in ATF's Explosives/Accelerant Detection Canine Program (EDCP/ADCP). This MOA is a partnership between both parties, and both parties make every effort to meet the terms and conditions of this MOA in order to better serve the general public.

AUTHORITY

In accordance with Public Law 110-117, Science, State, Commerce and Related Parties Appropriations Act of 2010, ATF is authorized to train State, Federal and local law enforcement parties, with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection. ATF enters into the agreement under the authority of 31 U.S.C. § 6305.

DEFINITIONS

Working life (or service life): A period of time determined by ATF to be the length of time an explosives or accelerant detection canine can effectively serve ATF's EDCP/ADCP. This period of time may vary from canine to canine.

Initial Training: A course that provides training to an Agency's designated handlers in explosives or accelerant detection canine work.

ATF-initiated activations: Events that require the use of detection canines. Includes ATF National Response Team (NRT) activations, special events, dignitary protection, and other similar events.

Transferee: An individual, usually a handler, to which ATF transfers ownership of a detection canine.

RESPONSIBILITIES

ATF agrees to:

- a. Train the Agency's designated handler in the ATF food reward methodology.

- b. Provide EDCP/ADCP training to the Agency's designated handler. Upon successful completion of the training, the handler and assigned explosives or accelerant detection canine will receive ATF certification. ATF will provide annual recertification. In-service training will be provided as time and funding permits.
- c. Provide a training facility for the EDCP/ADCP handler. The training will be conducted at the ATF Canine Training Center (CTC), 122 Cavalry Drive, Front Royal, Virginia or other suitable facility as determined by ATF.
- d. Purchase a canine(s) for the Agency, and pay the handler's lodging expenses incurred during the initial training. ATF will reimburse the Agency and/or the handler for initial training meals at the current Federal Government per diem rate. During initial training at the CTC, ATF will provide the Agency's handler(s) with canine-related equipment determined by ATF to be necessary for the handler(s) training. If Agency is a Federal entity, Agency shall bear all costs discussed in this section, or related to those costs discussed in this section.
- e. Provide technical oversight during course curriculum development, training, recertification, and throughout the Agency's participation in the EDCP/ADCP.
- f. Provide the necessary EDCP/ADCP personnel (including an ATF forensic chemist) to evaluate, test, and certify a canine for proficiency in detecting explosives/accelerants. An ATF forensic chemist shall conduct all annual recertifications. The ATF Canine Training and Operations Support Branch (CTOSB) shall conduct practical evaluations during initial training and future recertifications.
- g. Reimburse the Agency, in accordance with Federal travel regulations and ATF orders and policy, for travel expenses incurred by the handler for ATF-initiated activations. **ATF WILL NOT PAY ANY HANDLER'S SALARY, OVERTIME EXPENSES, OR OTHER EMPLOYMENT BENEFITS INCURRED AS A RESULT OF ANY HANDLER'S PARTICIPATION IN ATF-INITIATED ACTIVATIONS.**
- h. Provide written requests (as necessary) to the Agency for the handler to provide support for ATF-initiated activations. Written requests may come in the form of memoranda, facsimile, electronic mails, or text messages.

Agency agrees to:

- a. Ensure that a handler(s) is available for ATF-initiated activations in consideration for the ATF-provided training. This requirement shall be in effect for the working life of the canine(s) assigned to the Agency. ATF has the discretion to grant exceptions to this paragraph as necessary.

- b. Pay for any handler's salary, overtime expenses, or other employment benefits incurred as a result of any handler's participation in training at the CTC and ATF-initiated activations.
- c. Ensure that the handler is available for daily training, including weekends, during the working life of the canine.
- d. Ensure that the handler(s) is made available to ATF for mandatory in-service training and for a mandatory annual recertification seminar. The Agency will incur all travel expenses, lodging, meals, salary, overtime expenses, and employment benefits costs for the handler(s) for annual recertifications.
- e. Provide food, monthly preventative medication, and veterinary care (after initial training), to include an annual physical, vaccinations, and heartworm medication, for the working life of the canine. Provide adequate equipment and training aids to include at a minimum one explosives storage bunker for explosives detection canine teams.
- f. The Agency will ensure that its handler only uses ATF's food reward methodology (or any subsequent ATF order or standard operating procedure formalizing the ATF food reward methodology), for the working life of the dog.
- g. Provide, at its expense, a climate-controlled vehicle fully-dedicated to the handler and suitable to the handler's working environment. This vehicle must have air conditioning, heat, and an installed pre-fabricated cage.
- h. Ensure that the handler is not assigned to handle any other working canine (other than a canine provided for the handler's use by ATF) for the duration of handler's participation in ATF's EDCP/ADCP.
- i. Ensure that the handler houses the canine inside the handlers' residence. Handlers must comply with all canine handling requirements communicated to the handler by ATF during initial training, in-service training, and annual recertification. ATF has the discretion to grant exceptions to its handling requirements if necessary.
- j. Comply with any ATF denial of any individual selected to attend EDCP/ADCP training.
- k. Ensure that the handler has access to a laboratory capable of conducting comprehensive analysis of explosives/accelerants.
- l. Provide to ATF all canine monthly training logs and monthly reports related to canine deployment and utilization.
- m. Be held to the requirements of future ATF orders and standard operating procedures as they affect Agency's responsibilities under this MOA.

- n. Ensure that the canine, which is the property of ATF, is not to be used by the Agency, the handler, or any other party for private use, personal financial gain, or for any non-law enforcement purpose that does not directly benefit the Agency or ATF.

GENERAL GUIDELINES

- a. Agency personnel participating in the EDCP/ADCP shall comply with the following regulations and policies, both during the initial training at the CTC, in-service training, annual recertifications, and ATF-initiated activations: the Department of Justice Use of Force Policy Statement; the ATF Conduct and Accountability Policy (ATF Order 2130.1); Title 5, Code of Federal Regulations Part 735 and 3801; the Justice Property Management Regulations (DOJ Order 2400.3); and the ATF Investigative Priorities, Procedures and Techniques Policy (ATF Order 3210.7B), which includes supervisory controls. The Agency's personnel must comply with future versions of the regulations and policies discussed in this MOA.
- b. If necessary, Agency personnel participating in the EDCP/ADCP shall qualify with the firearms issued to them by the Agency and comply with Agency's proficiency standards. Agency personnel will be prohibited from carrying firearms during the initial training at CTC, in-service training, and annual recertifications unless required by ATF.
- c. An Agency handler authorized to use ATF-owned or leased vehicles will be provided with policies concerning the use and care of Government-owned vehicles. ATF-owned or leased vehicles may only be used for official Federal Government purposes. An Agency handler will be provided with the following policies, with which an Agency handler must comply: Motor Vehicle Management Policy (ATF Order 1870.1) and the Criminal Enforcement General Information (ATF Order 3000.1E, specifically Chapter C, paragraph 42).

FUNDING

ATF's responsibilities under the MOA are subject to the availability of funds and Federal law, regulation, and policy.

PENALTIES AND DISPOSITION

ATF may remove any canine from the Agency, withdraw certification, require reimbursement for the cost of the canine and all training expenses, or recommend rescission of deputization of Agency's handler(s) upon the occurrence of any of the following events:

- a. Handler or canine is not performing within the standards and protocols of the EDCP/ADCP; or

- b. Handler or Agency has failed to comply with any requirements under this MOA.
- c. Any violation of terms or conditions of this MOA or with any current regulation or policy referenced under this MOA (or future regulations or ATF policies concerning the EDCP/ADCP).

The parties acknowledge that the canine is the property ATF and that only ATF may determine the final disposition of any canine assigned pursuant to this MOA. Neither the Agency nor the handlers may claim ownership of a canine without an official, written determination by ATF. ATF retains ownership of all canines assigned pursuant to this MOA until ATF determines that ownership of a canine may be transferred to an individual other than ATF (preferably a handler). Such a transfer will be memorialized in an agreement executed between ATF, the Agency, and the handler (or the individual to whom the ownership of the canine is transferred). Upon transfer of ownership, the transferee shall be solely responsible for the canine's health and welfare. The Transferee shall be prohibited from using the canine for profit, law enforcement, or any purpose other than companionship.

EFFECTIVE DATE, MODIFICATIONS, AND TERMINATION

This MOA is effective upon the date the last party signs below. Modifications must be made in writing. The parties agree that updates and policies discussed in the MOA shall be automatically incorporated into this MOA.

This MOA may be terminated upon 60 days' written notice to the other party. The responsibilities of the parties shall run from the effective date of this MOA through the working life of all canines provided to the Agency, unless the MOA is terminated at an earlier date.

Each signatory below represents that he/she has the authority to bind his/her Agency. Both parties recognize that this MOA shall be binding upon their parties regardless of any changes in management or in the authority of the signatories below to bind their respective parties.

Agency Official

Date

Assistant Director (Training and Professional Development)

Date

Assistant Director (Management)/Chief Financial Officer

Date